

The Georgia State Board of Optometry met on **January 29, 2003** at the Professional Licensing Boards Division, 237 Coliseum Drive in Macon, Georgia for the purpose of conducting business.

**Members Present:**

- H. Kemp Jones, O.D., President
- R. Whitman Lord, O.D., Vice President
- William Cuthbertson, O.D.
- Robin McGhee, O.D. (Present at 10:40 AM)
- Kay F. Royal, O.D.

**Others Present:**

- Aaron Mason, Assistant Attorney General
- Anita O. Martin, Executive Director
- Lea F. Williams, Board Secretary

President Jones established that a quorum was present, and called the meeting to order at 10:00 A.M.

Dr. Lord moved, Dr. Royal seconded, and the Board voted to enter into **EXECUTIVE SESSION** in accordance with O.C.G.A. §43-1-2(k) to deliberate on applications. Voting in favor of the motion were those present who included Drs. Jones, and Cuthbertson.

<b>EXECUTIVE SESSION:</b>
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The Board reviewed and discussed the following licensure application(s):

**S.J.S.**—Appealing Board's previous denial of licensure.

The Board voted to returned to **Open Session**.

<b>OPEN SESSION:</b>
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Dr. Lord made a motion to **approve** the list of new licensees. The motion was seconded by Dr. Cuthbertson and approved by the Board. (Attachment #1)

Dr. Lord made a motion to **approve** the minutes of the October 16, 2002 Meeting. The motion was seconded by Dr. Royal and approved by the Board.

Dr. Cuthbertson made a motion to **approve** the minutes of the December 18, 2002 Conference call. Dr. Lord seconded the motion and it was approved by the Board.

**The Board considered the following correspondence and directed the staff to advise, or voted, if applicable, for the following:**

**E-Mail from Van Miller:** Dr. Lord made a motion to **advise** Mr. Miller that the Board agrees with his assessment of the law. The motion was seconded by Dr. Cuthbertson and approved by the Board.

**Reinstatement Request: Lester M. Sharpton, O.D.:** Dr. Royal made a motion to **reinstate** Dr. Sharpton's license under a Public Consent Order, to include direct supervision by a Board-approved optometrist for five (5) years. The motion was seconded by Dr. Lord and approved by the Board.

**O.I.G.'s Request:** The Georgia State Board of Optometry has received a request from the Office of the Inspector General to release the following information from Board files or records:

1. A copy of all public documents docketed with the Professional Licensing Boards Division, including but not limited to Voluntary Surrenders, Consent Orders, and Orders of an Administrative Law Judge, including the social security number of the licensee or applicant, and
2. Access to investigative files and copies of investigative files when requested by the Office of Inspector General. The disclosed information will be used to exclude from participation in Federal health care programs any individual whose license to provide health care has been revoked or suspended by any licensing authority for reasons bearing on professional competence, professional performance, or financial integrity, pursuant to 42 U.S.C. § 1320a-7.

Be it resolved that the Georgia State Board of Optometry authorizes the release of the requested information as outlined in #1 above, to the Office of Inspector General, for the purposes and uses as stated above, pursuant to the authority of the Board to release such information under O.C.G.A. §§ 43-1-19(h), 43-1-21, 43-1-2(k), and 50-18-72(a) (11.3) (B) (iii). The Board is aware that such information is to remain confidential under O.C.G.A. § 50-18-72(a)(11.3). The Board has received written assurance from the Office of Inspector General that such information released by the Board will remain confidential under paragraph (c) of § 1921 of the Social Security Act.

Dr. Cuthbertson made a motion to **approve** the request of the O.I.G. The motion was seconded by Dr. Royal and approved by the Board.

**Letter/Report regarding Van Paul Cuthbertson, O.D.:** Although discussed, this item was viewed as informational. Dr. Cuthbertson recused himself from the discussion.

**Information Regarding Vistakon:** This item was viewed as information.

**Letter from National Vision, Inc.:** Dr. Lord made a motion to **notify** that the state organization will handle these types of issues. The motion was seconded by Dr. Cuthbertson and approved by the Board.

**Letter from the Kansas Board re: 1-800 Contacts:** This item was viewed as information.

**Information submitted by the GOA:** Dr. Royal made a motion for the Board to start sending the GOA quarterly Board Reports, for submission in the GOA's newsletter. The motion was seconded by Dr. Lord and approved by the Board.

**Information submitted by ARBO:** Dr. Lord made a motion to have information regarding ARBO's Contact Lens Complications Reporting Form on the Board's website. The motion was seconded by Dr. Cuthbertson and approved by the Board.

**Appeal Appointment: S.J.S.:** After meeting with the applicant, the Board voted unanimously to **table** a vote until more information was obtained. Dr. Lord made a motion to form an Investigative Committee, consisting of himself, Dr. Royal and Dr. McGhee, to participate in a conference call with the optometrist who supervised S.J.S. during his externship. The motion was seconded by Dr. Cuthbertson and approved by the Board.

➤ **Anita O. Martin, Executive Director's Report**

- Discussed budget cut issues.
- Informed the Board that Debbie Crumley, Consumer Member, has resigned.
- Update on the letter to Cathy Cox regarding law enforcement and prosecution assistance with unlicensed practice.

Dr. Royal moved, Dr. Lord seconded, and the Board voted to enter into **EXECUTIVE SESSION** in accordance with O.C.G.A. §43-1-19(h)(2) to deliberate on disciplinary matters, and to receive information on investigative reports. Voting in favor of the motion were those present who included Drs. McGhee, Jones and Cuthbertson.

## **REPORTS**

➤ **Aaron Mason, Attorney General's office**

- Reported on the two cases the Board had requested advice on.

➤ **Investigations, Kathy Harvey**

- Reported on five (5) cases.

➤ **Cognizant Report, Dr. Jones**

- N/A

The Board returned to **Open Session** to vote on matters discussed in Executive Session.

### **Regarding Enforcement's Report:**

**Esquire Fashions:** Dr. Lord made a motion to **accept** the Cease & Desist Order signed by Esquire Fashions and **close** the case. Dr. Royal seconded the motion and it was approved by the Board.

**K's Wigs & Fashions:** Dr. Royal made a motion to **accept** the Cease & Desist Order signed by K's Wigs and Fashions, and **close** the case. The motion was seconded by Dr. Cuthbertson and approved by the Board.

**Lee's Supermarket:** Dr. Cuthbertson made a motion to **accept** the Cease & Desist Order signed by Lee's Supermarket, and **close** the case. The motion was seconded by Dr. McGhee and approved by the Board.

**OPT03-024:** Dr. McGhee made a motion to **close/dismiss** the case, as no violation was found. The motion was seconded by Dr. Cuthbertson and approved by the Board.

**OPT03-029:** Dr. Royal made a motion to **close/dismiss** the case, as no violation was found. The motion was seconded by Dr. Lord and approved by the Board.

Dr. Royal made a motion to **post** an amendment to Chapter 430-10-.03, Approved Therapeutic Drugs of the Board's Rules, by adding moxifloxacin, cyclosporine, and acyclovir to the list of approved therapeutic drugs. The motion was seconded by Dr. Lord and approved by the Board. (Attachment #2)

Aaron Mason, Board Attorney cited the authority for this rule during the revision process in the Board meeting as being O.C.G.A. §§ 43-30-1(2)(B) & (C) and 43-30-5. All citations are correct as stated by Mr. Mason.

The Board also voted that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 43-30-1(2)(b) & (c) and 43-30-5.

The Board also voted that it is not legal or feasible to meet the objectives of O.C.G.A. §§ 43-30-1(2)(b) & (c) and 43-30-5 to adopt or implement differing actions for business as listed in O.C.G.A. § 50-13-4(3) (A), (B), (C), and (D). The formulation and adoption of this rule will impact every licensee in the same manner and each licensee is independently licensed, owned and operated and dominate in the field of optometry.

There being no further business to come before the Board, the meeting was adjourned at 12:20 P.M. on January 29, 2003.